

UNITED STATES DISTRICT COURT

DISTRICT OF RHODE ISLAND

ALBERT GRAY, ADMINISTRATOR, et al.

VS.

C.A. NO.: 04-312L

JEFFREY DERDERIAN, et al.

VS.

HOME DEPOT U.S.A., INC.

**ANSWER, CROSS-CLAIM, AND THIRD-PARTY COMPLAINT
OF DEFENDANT HOWARD JULIAN**

1- 297. Defendant, Howard Julian is without sufficient knowledge to admit or deny the allegations of Paragraphs 1-297 of Plaintiff's Complaint.

298. Defendant admits that at times material to the Complaint he resided in Hope Valley, Washington County, Rhode Island. Defendant further admits that he was the sole stockholder of La Villa Strangiato, Inc. and was an employee of that corporation. Defendant denies the remaining allegations of Paragraph 298.

299. Defendant admits that he was the sole stockholder and an employee of La Villa Strangiato, Inc. from approximately December 5, 1995 through March 7, 2000 and that the premises at 211 Cowesett Avenue, West Warwick, Rhode Island was leased from Defendant, Triton Realty Limited Partnership during that time period. Defendant denies the remaining allegations of Paragraph 299.

300. Defendant repeats and incorporates his answers to all prior paragraphs.
301. Defendant seeks to have all damage claims against him denied and dismissed.
302. Defendant repeats and incorporates his answers to all prior paragraphs.
303. Defendant denies the allegations of Paragraph 303.
- 304-610. Defendant, Howard Julian is without sufficient knowledge to admit or deny the allegations of Paragraphs 304-610.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The filing of Plaintiffs' Complaint fails to satisfy the applicable Statute of Limitations.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' Complaint, as to Defendant, fails to state a claim upon which relief can be granted.

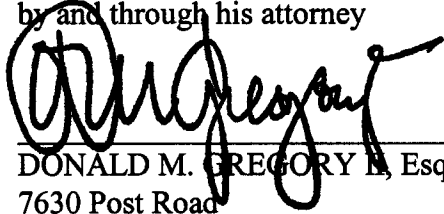
THIRD AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, were caused in whole or in part by the negligence of others.

FOURTH AFFIRMATIVE DEFENSE

Defendant reserves such further defenses as may be currently unknown but may appear during the course of pre-trial proceedings or at trial.

Defendant, Howard Julian,
by and through his attorney



DONALD M. GREGORY, Esq. #1779
7630 Post Road
North Kingstown, RI 02852
(401) 295-9731 Phone
(401) 295-4828 Fax

CROSS-CLAIMS

TRITON REALTY, INC.

1. At all times relevant to this Complaint, Triton Realty, Inc., was a General Partner of Triton Realty Limited Partnership.
2. As General Partner of Triton Realty Limited Partnership, Triton Realty, Inc., was responsible for the daily operations of Triton Realty Limited Partnership and had an obligation to keep the premises at 211 Cowesett Avenue, West Warwick, Rhode Island, safe for all persons lawfully on the property.
3. Defendant Howard Julian was unaware of any defective materials or conditions on or about the subject premises.

4. Insofar as any defective conditions or materials on or about the subject premises contributed to Plaintiffs' deaths, injuries or damages, Triton Realty, Inc., was negligent in either failing to correct or remove said materials or conditions or to notify Defendant Howard Julian of such defective conditions or materials.

5. If Defendant Howard Julian is found liable to Plaintiffs as a result of said defective conditions or materials, Triton Realty Inc., is liable to Defendant Howard Julian for its failure to adequately maintain the subject premises or to warn or notify Defendant Howard Julian of same.

WHEREFORE, Howard Julian demands judgment against Triton Realty, Inc., in an amount equal to any judgment against him by Plaintiffs.

TRITON REALTY LIMITED PARTNERSHIP

1. At all relevant times to this Complaint, Triton Realty Limited Partnership was in ownership of the subject premises.

2. Insofar as any defective conditions or materials on or about the subject premises contributed to Plaintiffs' deaths, injuries or damages, Triton Realty Limited Partnership was negligent in either failing to correct or remove said materials or conditions or to notify Defendant Howard Julian of such defective conditions or materials.

3. If Defendant, Howard Julian is found liable to Plaintiffs as a result of said defective conditions or materials, Triton Realty Limited Partnership is liable to Defendant, Howard Julian for its failure to adequately maintain the subject premises or to warn or notify Defendant, Howard Julian of same.

WHEREFORE, Howard Julian demands judgment against Triton Realty Limited Partnership in an amount equal to any judgment against him my Plaintiffs.

RAYMOND J. VILLANOVA

1. At all times relevant to this Complaint, Triton Realty, Inc., was a General Partner of Triton Realty Limited Partnership.
2. As General Partner of Triton Realty Limited Partnership, Triton Realty, Inc., was responsible for the daily operations of Triton Realty Limited Partnership and had an obligation to keep the premises at 211 Cowesett Avenue, West Warwick, Rhode Island, safe for all persons lawfully on the property.
3. Defendant Howard Julian was unaware of any defective materials or conditions on or about the subject premises.
4. Insofar as any defective conditions or materials on or about the subject premises contributed to Plaintiffs' deaths, injuries or damages, Triton Realty, Inc., was negligent in either failing to correct or remove said materials or conditions or to notify Defendant Howard Julian of such defective conditions or materials.
5. If Defendant Howard Julian is found liable to Plaintiffs as a result of said defective conditions or materials, Triton Realty Inc., is liable to Defendant Howard Julian for its failure to adequately maintain the subject premises or to warn or notify Defendant Howard Julian of same.

WHEREFORE, Howard Julian demands judgment against Triton Realty, Inc., in an amount equal to any judgment against him by Plaintiffs.

DENIS P. LAROCQUE ALIAS, JOHN DOE

1. Denis P. Larocque as Fire Inspector for the Town of West Warwick was responsible for

inspecting commercial structures in the Town of West Warwick, including the premises at 211 Cowesett Avenue, and for enforcing the fire code of the State of Rhode Island.

2. Denis P. Larocque inspected the premises at 211 Cowesett Avenue on one or more occasions from the period of December, 1995 through March, 2000.

3. Defendant, Howard Julian relied on those inspections to conclude that the premises were safe and in compliance with all fire code regulations.

4. If Denis P. Larocque is found to be negligent in his inspections during the period from December, 1995, through March, 2000 and said negligent inspections contributed to Plaintiffs' deaths and injuries, then Denis P. Larocque should be held liable to Howard Julian for any liability incurred to Plaintiffs by Howard Julian as a result of his reliance on the inspections performed by Denis P. Larocque.

WHEREFORE, Howard Julian demands judgment against Denis P. Larocque individually and in his capacity as Fire Inspector for the Town of West Warwick in an amount equal to any judgment against him by Plaintiffs.

DIANE DE RUOSI IN HER CAPACITY

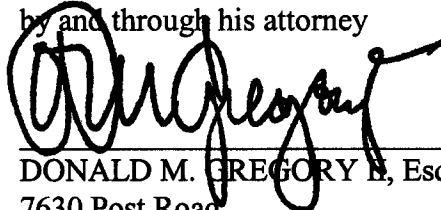
AS TREASURER OF THE TOWN OF WEST WARWICK

1. Defendant, Howard Julian seeks damages from Diane De Ruosi in her capacity, for the negligence of any and all Town employees whose negligence contributed to any liability on the part of Defendant, Howard Julian.

WHEREFORE, Howard Julian demands judgment against Dian De Ruosi in her capacity

as Treasurer for the Town of West Warwick in an amount equal to any judgment against him by Plaintiffs.

Defendant, Howard Julian,
by and through his attorney



DONALD M. GREGORY II, Esq. #1779
7630 Post Road
North Kingstown, RI 02852
(401) 295-9731 Phone
(401) 295-4828 Fax

THIRD-PARTY COMPLAINT

1. Defendant and Third-Party Plaintiff, Howard Julian, incorporates by reference Plaintiffs' Complaint.
2. Third-Party Defendant, Home Depot U.S.A., Inc., is a Delaware Corporation registered with the Rhode Island Secretary of State's Office as a foreign corporation registered to conduct business in this State.
3. Third-Party Defendant, Home Depot U.S.A., Inc., has sufficient minimum contacts within the State of Rhode Island to bring itself under the jurisdiction of this Court.
4. Plaintiffs' Complaint alleges that Defendant/Third-Party Plaintiff Howard Julian "negligently managed, maintained, supervised, controlled and inspected premises at 211 Cowesett Avenue, West Warwick, Rhode Island . . . Julian's negligence included the installation

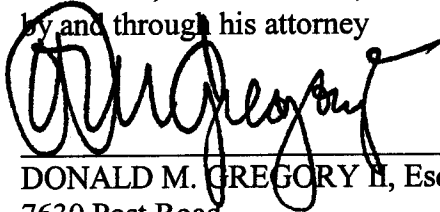
and maintenance of defective material, including interior finish, on the premises, which caused and contributed to fire spread on February 20, 2003”.

5. Some or all of the materials used by Defendant Howard Julian on the premises at 211 Cowesett Avenue were purchased from one or more of Third-Party Defendant's Home Depot stores.

6. If said materials are found to be defective and contributed to Plaintiffs' damages, Third-Party Defendant was negligent, in failing to warn Third-Party Plaintiff of the dangerous nature of said materials.

WHEREFORE, Defendant/Third-Party Plaintiff Howard Julian demands judgment against Third-Party Defendant Home Depot, U.S.A., Inc., for any amounts for which Defendant Howard Julian is found liable to Plaintiffs.

Defendant, Howard Julian,
by and through his attorney



DONALD M. GREGORY II, Esq. #1779
7630 Post Road
North Kingstown, RI 02852
(401) 295-9731 Phone
(401) 295-4828 Fax

CERTIFICATION

I hereby certify that on the 30th day of August, 2004, I forwarded a copy of the within Answer, Cross-Claim and Third-Party Complaint to all attorneys listed on the attached Exhibit A by regular mail, postage prepaid.

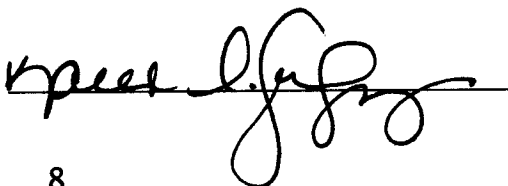


EXHIBIT A

Mark S. Mandell, Esquire
MANDELL, SCHWARTZ & BOISCLAIR
One Park Row
Providence, RI 02903

Max Wistow, Esquire
WISTOW & BARYLICK, INC.
61 Weybosset Street
Providence, RI 02903

Patrick T. Jones, Esquire
COOLEY, MANION, JONES, LLP.
21 Custom House Street
Boston, MA 02110

Michael A. St. Pierre, Esquire
REVENS, REVENS, & ST. PIERRE
946 Centerville Road
Warwick, RI 02886

Stephen E. Breggia, Esquire
BREGGIA, BOWEN & GRANDE
395 Smith Street
Providence, RI 02908

Steven A. Minicucci, Esquire
CALVINO LAW ASSOCIATES
373 Elmwood Avenue
Providence, RI 02907

Eva Marie Mancuso
Attorney at Law
HAMEL, WAXLER, ALLEN & COLLINS
387 Atwells Avenue
Providence, RI 02909

Charles N. Redihan, Esquire
KIERNAN, PLUNKETT & REDIHAN
91 Friendship Street
Providence, RI 02903

James. T. Murphy, Esquire
HANSON CURRAN, LLP.
146 Westminster Street
Providence, RI 02903

Kelly N. Michels
Attorney at Law
HANSON CURRAN, LLP.
146 Westminster Street
Providence, RI 02903

Marc DeSisto, Esquire
DeSISTO LAW OFFICES
211 Angel Street
Providence, RI 02903